

ARGUMENTS/REMARKS

Response to restriction requirement

Affirming previous telephone conversations between the Examiner and counsel for applicant, applicant traverses the restriction requirement, elects the subject matter of claims 1-46 for prosecution, and withdraws claims 47-49 from prosecution for presentation in a divisional application.

Response to double patenting rejection

Applicant respectfully traverses the nonstatutory double patenting rejection which, as the Examiner notes, "is grounded in public policy . . . so as to prevent the unjustified or improper timewise extension of the 'right to exclude' granted by a patent and to prevent possible harassment by multiple assignees." The application which is referred to as the basis for the double patenting rejection is SN 09/801,417 by the present applicant. As shown by Patent Office assignment records, that application and this application have a common assignee, AT&T Corp. Also, that application and this application have the same filing date, March 7, 2001, and their terms thus will end on the same date. 35 U.S.C. §154(a)(2). Therefore, it would appear that a "timewise extension" of a patent right will not result from allowance of the claims in this application, and a terminal disclaimer would not shorten the patent term. For these reasons, withdrawal of the provisional nonstatutory double patenting rejection is respectfully requested.

Response to rejections based on prior art

Claims 2-7, 11-46, and 50-67 remain for prosecution in this application. Certain of previously presented claims 2-7 and 11-46 have been amended as indicated above. Claims 50-67 are new, are within the restriction election noted above, and are presented to set forth clearly patentable subject matter. With respect to the new claims, a fee transmittal form, claim fee record form and additional claim fee accompany this amendment.

As set forth in independent claim 2 the system of the present invention is “for managing telephone service for a plurality of persons sharing a common telephone line” and is “based on determining whether a person sharing the common telephone line is at the location served by the common telephone line”. In the system of claim 2, each of the persons sharing the common telephone line carries a transmitter adapted to accompany the person (e.g., as a wallet card (claim 3) or keychain fob (claim 4)) and a base station at the location of the common telephone line contains a receiver, a processor, and for each person sharing the common telephone line, a database record unique to the person and correlating the unique signal emitted by the person’s transmitter to the unique database record. The base station has a telephone connection to the public switched network and a controller in the network contains a database of records that correspond to telephone numbers in the network, one of the database records corresponding to the common telephone line shared by the plurality of persons. The receiver detects signals from a person’s transmitter when the person is in close proximity, i.e., at the location of the common telephone line. A database record is entered when the signal is received, and when the signal is failed to be received for a predetermined period of time. When the database record changes, the base station initiates a telephone call to the network, updates the network database to record whether each of the persons sharing the common telephone line is or is not at the location served by the common telephone line, and thereafter disconnects. The network controller determines how to provide services to the persons sharing the common telephone line in accordance with the updated network database records.

Reconsideration is respectfully requested of the rejection of claims 2-7 and 11-18 as anticipated by Yacenda et al 5,822,418 (“Yacenda”). Yacenda discloses a PBX-based system typically for a single office in which each person is associated with a single telephone line and the persons wander around the office premises away from the location served by their telephone lines and into locations served by the telephone lines associated with other persons (one-to-one person-to-line correspondence, many possible locations). Yacenda deals with the problem of tracking down persons who are visiting other locations served by other telephone lines, and completing calls to them at the other telephone line numbers which are not their telephone numbers.

In contrast, the invention of claim 2, as discussed above, deals with a situation more commonly encountered in the home environment, where many persons (e.g., in a family) share a common telephone line (many-to-one person-to-line correspondence, one possible location). The central problem addressed by the present invention is how to provide individualized service to

persons all sharing the same phone. A base station provides a "yes or no" entry to signify the presence or absence of the person at the location served by the common telephone line, and does not have as its foremost task the need to track them down when they are at school, at the gym, or shopping.¹ Rather, a person's presence or absence determines whether calls intended for them ring through (e.g., claim 13) or result in other actions (e.g., claims 14-17) such as message taking. Likewise a person's presence or absence controls the completion of restricted outbound (claims 19-26) or inbound (claims 27-38) calls, and allows certain other calls, such as emergency calls (claim 39) or other unrestricted inbound calls (claims 40-46) to override outbound or inbound restrictions.

Yacenda's system accordingly does not anticipate the system of claim 2, or of claims 3-7 and 11-18 which are dependent on claim 2. Moreover, with respect to claims 19-46, also dependent on claim 2, there is no suggestion presented in any of the cited art including Borland et al 6,246,756 ("Borland") to modify Yacenda to achieve the above-described features of the system of the present invention or its advantages. As there is no suggestion in Yacenda of a plurality of persons sharing a single or common telephone line, there can be no suggestion of the offering of different services to persons sharing the common telephone line based on a transmitter-based determination of which of the several persons sharing the common telephone line is present at the location served by the common telephone line. As a consequence, the systems of Yacenda and Borland neither anticipate nor make obvious the system of the present invention nor provide the services offered to the users of system of the present invention.

Reconsideration is respectfully requested of the rejection of claims 19-46 as unpatentable over Yacenda in view of Borland. Borland requires the use of a keypad entry or a card reader contemporaneously with the making or receiving of an outbound or inbound call (column 16, lines 29-35), and has no database record that has been previously updated to maintain a current record of who is present to control call completion. The difference between Borland and the system of the present invention is most evident in the restricted inbound call case, where when a restricted inbound call comes in, Borland would have multiple users make keypad ID entries one after another until a match is found that would allow call completion. Applicant's invention has a routinely updated database record to indicate whether a required person is present and automatically allows the call to be completed if the person is present. Borland doesn't disclose

¹ Although this function can be added to the invention by registering a "visitor" temporarily, see specification pp. 20-21.

any basis for combining its disclosure with Yacenda, nor does Yacenda disclose any basis for combining its disclosure with Borland, because the two systems have different contexts and approaches.

New claims 50-67 are presented to include system claims which track the subject matter of method claims 18-35 of SN 09/801,417, which the Examiner previously has allowed over the disclosures of Yacenda and Borland (and other prior art cited in that application). See Office Action dated March 10, 2004. Applicant respectfully submits that these system claims are clearly patentable for the same reasons method claims 18-35 in SN 09/801,417 are patentable, because the claims distinguish from the prior art in the same way. A side-by-side comparison of new claims 50-67 with claims 18-35 of SN 09/801,417 will indicate that in system form they recite elements that are distinguishable from the prior art in the same way as the allowed method claims. Applicant notes that new claims 50-67 are distinct from method claims 18-35 of SN 09/801,417 because system claims are distinct from method claims, but applicant anticipates that these claims would likely be subject to the same nonstatutory double patenting rejection the Examiner has applied to claims 1-46, and in anticipation of such a rejection applicant repeats the arguments made above with respect to the double patenting rejection.

For the foregoing reasons, it is respectfully submitted that claims 2-7, 11-46 and 50-67 are now allowable, and reconsideration and allowance of the claims in this case are respectfully requested. If there are any outstanding issues, the Examiner is invited to contact applicant's attorney at 203-838-8037.

An associate power of attorney to the undersigned is attached, together with a notification of change of correspondence address.

Respectfully,
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